

AUO GUIDELINES

AUO Defined

AUO is the payment of premium pay on an annual basis to an employee in a position in which the hours of duty cannot be controlled administratively and which requires substantial amounts of irregular or occasional overtime work, with the employee generally being responsible for recognizing, without supervision, circumstances which require the employee to remain on duty.

The amount of premium pay is a percentage between 10-25% of the employee's rate of basic pay. Except for regularly scheduled overtime, night, Sunday, and holiday pay, an employee may not receive other premium pay.

Responsibilities

A. Field/District Office Managers (FM) who have approval authority for AUO, have the responsibility to ensure AUO is used appropriately and that employees receive the appropriate AUO payments. Additionally, FMs must periodically review the use of AUO to identify opportunities for reducing AUO by hiring additional personnel, reassigning clerical duties to non-law enforcement personnel, establishing work priorities, discontinuing low priority activities of subordinates, and seeking other more cost effective alternatives.

B. Human Resources Services has the responsibility to ensure that the personnel action to begin or terminate AUO is properly supported by certification from the FM that the employee has met the eligibility requirement for the level of AUO authorized.

C. Employees who receive AUO pay are responsible for adhering to the criteria for the use of AUO.

IMPLEMENTATION PROCESS

1. Coverage (5 C.F.R. 550.153)

The FM must determine if the following requirements are met before approving an employee for AUO:

A. The position is one in which the hours of duty cannot be controlled administratively, e.g., by hiring additional personnel, rescheduling the hours of duty, or granting compensatory time to offset overtime hours required

B. In order to satisfactorily discharge the duties of the position, the employee is required to perform substantial amounts of irregular or occasional overtime. In regard to this requirement:

- 1) A substantial amount of irregular or occasional overtime work means an average of at least three (3) hours a week of that overtime work.
- 2) The irregular or occasional overtime work is a continual requirement,

generally averaging more than once a week.

3) There must be a definite basis for anticipating that the irregular or occasional overtime work will continue the following year.

4) Duties performed on overtime are generally accepted procedures for law enforcement.

C. The position requires the employee to be generally responsible for recognizing, without supervision, compelling circumstances which require him/her to remain on duty. This is interpreted to mean:

1) The need to remain on duty must be a definite, official, and special requirement of the position.

2) The need is not merely because it is desirable, but because of compelling reasons inherently related to continuance of the employee's duties and of such a nature that failure to carry on would constitute negligence.

3) The employee continues on duty after a full tour of duty or resumes duty in accordance with a pre-arranged plan or awaited event.

4) The employee has no choice as to when or where he may perform the work.

2. Administrative Work Week

The supervisor and employee will determine which eight hours of the day and which days of the week will make up the administrative workweek. It will be the work needs of the program and not the personal preference of the employee that will dictate the make-up of the administrative work week. Saturday and/or Sunday, may be included as part of the administrative work week.

3. Eligibility and Rate Determination

A. For employees not currently receiving AUO, a 13-week starting period will be used for eligibility and rate determinations. The rate determination will be developed through tracking of overtime hours worked in compelling circumstances for the 13-week period.

B. AUO premium pay is based on the hours of AUO actually performed during the previous period and on events anticipated in the current period. The rate of premium pay is either 10, 15, 20, or 25 percent of that part of an employee's rate of basic compensation. It may not exceed 1½ times the basic pay for a GS-15, step 10, using the following formula:

1) Ten (10) percent: an average of at least 3 but no more than 5 hours a week.

2) Fifteen (15) percent: an average of over 5 but no more than 7 hours a week.

3) Twenty (20) percent: an average of over 7 but not more than 9 hours a week.

4) Twenty-five (25) percent: an average of over 9 hours a week.

C. Calculations: Weekly averages for purposes of eligibility and rate determinations are computed by totaling all hours of AUO worked during the preceding year and dividing the total by the number of weeks of qualifying duty. The number of weeks of qualifying duty is determined by subtracting the number of hours of non-qualifying duty from 2080 and dividing the result by 40. Leave for less than a full day and holidays for which holiday pay is received will be disregarded. See Attachment 1, Calculation Worksheet (H-9260-1, Illustration 29). For the initial start-up, calculations are based on the 13-week period.

D. The following will not be used in computing AUO rates:

1) Paid leave for the entire 8-hour workday

2) Holidays

3) Leave Without Pay

4) Temporary duty assignments that are more than 10 consecutive workdays in a non-AUO status and/or a total of more than 30 workdays in a calendar year while on such a temporary assignment (5 C.F.R. 550.162(c)(1))

5) Training

6) All full days of official time spent on local union activities, i.e., time spent in FLRA hearings, time attending semi-annual consultations at national and regional levels.

4. AUO Reporting Requirement

A. Employee Responsibilities:

1) Each employee who is authorized to be paid for AUO will prepare a report at the end of each pay period using Form 9260-12, AUO Report (Attachment 2). At the end of each pay period the employee will prepare Form 9260-12, AUO Report, and submit the signed original to his/her immediate supervisor for review. Note: On the back of this form the employee must list a daily summary, annotating the reasons for the day's activities.

2) Employees are required to maintain the daily patrol log, Form 9260-15, (Attachment 3) which includes a description of all AUO work performed. This log must be attached to the back of Form 9260-12. This ensures accurate documentation and preparation of the AUO report.

B. Supervisor Responsibilities:

1) The immediate supervisor is to carefully review and validate the information submitted by the employee. Upon determining the accuracy of AUO reports, the immediate supervisor will sign to indicate his/her approval.

a. The immediate supervisor's review of Form 9260-12 is mandatory. Where questions arise concerning qualifying duties, the immediate supervisor will promptly resolve them with the ranger and ensure that all AUO claimed is qualifying.

b. Unresolved disputes at the immediate supervisory level may be referred to the next higher level of line supervision for determination. If a dispute concerning AUO cannot be mutually resolved, the supervisor will annotate on the Form 9260-12 to indicate a dispute and provide a copy of Form 9260-12 and supporting Form 9260-15 to the employee, if requested.

2) The Supervisor is responsible for calculating and determining the appropriate level of AUO premium pay for each ranger under their supervision in a timely manner

3) In the event there is a change or deduction in a ranger's AUO status, the ranger will be given written notification from his/her supervisor.

4) The immediate supervisor will maintain a file of completed Forms 9260-12, AUO Report, for each employee, for computation basis and annual AUO certification. All records in files must be signed by the supervisor. These records will be maintained for a period of six years or after a GAO audit, whichever comes first.

5. Annual Certification

A. Each supervisor will prepare annual reports of AUO for each employee under their supervision at the end of the fiscal year. The supervisor will document AUO worked and the qualifying calculation using the AUO calculation worksheet (Attachment 1) or H-9260-1, Illustration 29, and forward it to the Special-Agent-In-Charge (SAC).

B. The supervisor will, at the end of the qualifying fiscal year, prepare an alphabetical list of all LEOs within his/her jurisdiction that qualify for AUO pay for the upcoming fiscal year (based on the AUO calculation worksheet). This list of all employees qualifying for annual AUO will include:

1) Total hours of creditable AUO work performed in the prior qualifying period by each employee.

2) Each employee's average hours of creditable AUO work per week.

3) The percentage of AUO pay for which each employee is qualified for the upcoming year.

C. The list will be submitted to the Human Resources Office.

CONDITIONS AFFECTING AUO

Qualifying AUO Work

A. Compelling circumstances are special events, conditions, or circumstances recognized by rangers, generally without supervision, that in their best judgment require remaining in a duty status on an AUO basis. Compelling circumstances must be of such a nature that failure to act would constitute negligence. These are duties which cannot be postponed to the following workday. Excerpts from H-9260-1 Chapter V.A (Attachment 4) are provided as examples of qualifying circumstances.

B. Activities that are not the result of compelling circumstances do not qualify as uncontrollable overtime and are not creditable for determining eligibility for each associated premium pay. Excerpts from H-9260-1, Chapter V.B (Attachment 5) are provided as examples of work which do not qualify.

New Appointments

Newly Appointed Law Enforcement Rangers reporting for duty and immediately assigned to formal law enforcement training at the Federal Law Enforcement Training Center do not receive AUO. Premium pay begins when they report to their first field assignment location for On-the-Job Training, and perform work qualifying for AUO during an initial 13-week evaluation period.

Temporary Assignments

A ranger may continue to receive AUO pay for a period of not more than ten (10) consecutive prescribed work days on assignment to duties in which conditions do not warrant payment of this pay, and for a total of not more than thirty (30) work days in a calendar year while on such assignment. Full days of such time will not be counted in computing specific rates of AUO pay.

Advanced Training

A ranger may continue to receive AUO pay for an aggregate period of not more than sixty (60) prescribed work days on temporary assignment to an advanced program directly related to the duties for which AUO is paid. Full days of such training will not be counted in computing specific rates of AUO pay.

Temporary Assignment - Advanced Training Aggregate

The combined periods of temporary assignments and/or advanced training for which AUO pay is authorized may not exceed sixty (60) work days in a calendar year.

Periods of Leave and Holidays

Annual pay for AUO will continue during periods of paid leave and holidays and periods covered by lump sum payments. Full days of paid leave holidays, and leave without pay, will not be counted in computing specific rates of AUO pay.

Supervision

Supervision or coordination of any of the qualifying activities or similar activities, when performed outside of regular duty hours on an irregular or occasional basis, with the supervisor himself/herself generally determining the necessity to remain on or return to duty, may also qualify for AUO pay.

Holiday Pay

Holiday pay is paid to a Law Enforcement Ranger when directed to perform non-overtime work on a holiday. Approval to work must be in writing from the supervisor. The approval to work on a holiday will be for no more than the regular scheduled duty hours. If, for compelling reasons, the ranger works in excess of their regular scheduled hours, those hours are deemed AUO.